

SECTION III—REMARKS

This Amendment is submitted in response to the Office Action mailed January 30, 2004, which action the Examiner made final. No claims are amended herein, and claims 1-19 remain pending in the application. Applicants respectfully request allowance of all pending claims in view of the following remarks.

Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 1-4 and 8-17 as anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,226,618 to Downs et al (“Downs”). Applicants respectfully traverse the Examiner’s rejections. A claim is anticipated only if each and every element, as set forth in the claim, is found in a single prior-art reference. MPEP § 2131; *Verdegaal Bros. v. Union Oil of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). As explained below, Downs cannot anticipate these claims because it does not disclose every element and limitation recited therein.

Claim 1 recites a system combination including “a content server connected to a network, said content server capable of delivering content over said network, said content containing a digital watermark” and “at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content.” Downs does not disclose that the watermark is itself used in any way to determine the degradation of content received from a network. The Examiner alleges that Downs discloses “at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content” at column 7, lines 41-55 and column 22, lines 2-8. The passage at column 7, lines 41-55 reads as follows:

The control of Content usage is enabled through the End-User Player Application 195 running on an End-User Device(s). The application embeds a digital code in every copy of the Content that defines the allowable number of secondary copies and play backs. Digital watermarking technology is used to generate the digital code, to keep it hidden from other End-User Player Application 195, and to make it resistant to alteration attempts. When the Digital Content is accessed in a compliant End-User Device(s), the End-User Player Application 195 reads the watermark to check the use restrictions and updates the watermark as required. If the requested use of the content does not comply with the usage

conditions, e.g., the number of copies has been exhausted, the End-User Device(s) will not perform the request.

The passage at column 22, lines 2-8, reads as follows:

The data is invisible or inaudible to a human observer; that is, the data introduces no perceivable degradation to the Content 113. Since the watermark survives several steps of content processing, data compression, D-to-A and A-to-D conversion, and signal degradation introduced by normal content handling, the watermark stays with the Content 113 in any representation form, including analog representation.

The disclosure in these passages simply does not support the Examiner's rejection. These passages simply say that a watermark can be embedded in the content, that the watermark can be used for functions such as usage restriction, and that the watermark survives several steps of content processing. There is no disclosure, teaching, or suggestion whatsoever in these passages, nor anywhere else in Downs, about how degradations in content quality are identified or even assessed after the content is received from a network, and Downs cannot be fairly read to disclose a combination including "at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content."

In his rebuttal of Applicant's arguments, the Examiner appears to allege that Downs discloses a combination including "at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content" at column 11, lines 56-67 and column 12, lines 1-12. The two passages cited by the Examiner, which are contiguous in Downs, read as follows:

The Secure Digital Content Electronic Distribution System 100 is independent of the transmission network connecting the Electronic Digital Content Store(s) 103 and End-User Device(s) 109. It supports both point-to-point such as the Internet and broadcast distribution models such as broadcast television.

Even though the same tools and applications are used to acquire, package, and track Content 113 transactions over various Transmission Infrastructures 107, the presentation and method in which services are delivered to the customer may vary depending

on the infrastructure and distribution model selected. *The quality of the Content 113 being transferred may also vary since high bandwidth infrastructures can deliver high-quality digital content at more acceptable response times than lower bandwidth infrastructures.* A service application designed for a point-to-point distribution model can be adapted to support a broadcast distribution model as well.

C. System Uses

The Secure Digital Content Electronic Distribution System 100 enables the secure delivery of high-quality, electronic copies of Content 113 to End-User Device(s) 109, whether consumer or business, and to regulate and track usage of the Content 113.

(italics added). Again, the disclosure in these passages simply does not support the Examiner's rejection. Regarding the quality of content sent over a network, the passage says only that the quality can vary. There is no disclosure, teaching, or suggestion whatsoever in this passage, nor anywhere else in Downs, about how content degradations are identified or even assessed, and Downs cannot be fairly read to disclose a combination including "at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content."

Finally, in his rebuttal of Applicant's arguments, the Examiner appears to allege that Downs discloses a combination including "at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content" at column 42, lines 37-67 and column 43, lines 1-11. The two passages cited by the Examiner, which are contiguous in Downs, read as follows:

The Clearinghouse(s) 105 is responsible for the rights management functions of the Secure Digital Content Electronic Distribution System 100. Clearinghouse(s) 105 functions include enablement of Electronic Digital Content Store(s) 103, verification of rights to Content 113, integrity and authenticity validation of the buying transaction and related information, distribution of Content encryption keys or Symmetric Keys 623 to End-User Device(s) 109, tracking the distribution of those keys, and reporting of transaction summaries to Electronic Digital Content Store(s) 103 and Content Provider(s) 101. Content encryption keys are used by End-User Device(s) 109 to unlock Content 113 for which they have obtained rights, typically by a purchase transaction from an

authorized Electronic Digital Content Store(s) 103. Before a Content encryption key is sent to an End-User Device(s) 109, the Clearinghouse(s) 105 goes through a verification process to validate the authenticity of the entity that is selling the Content 113 and the rights that the End-User Device(s) 109 has to the Content 113. This is called the SC Analysis Tool 185. In some configurations the Clearinghouse(s) 105 may also handle the financial settlement of Content 113 purchases by co-locating a system at the Clearinghouse(s) 105 that performs the Electronic Digital Content Store(s) 103 functions of credit card authorization and billing. The Clearinghouse(s) 105 uses OEM packages such as ICVerify and Taxware to handle the credit card processing and local sales taxes.

Electronic Digital Content Store(s) Embodiment

An Electronic Digital Content Store(s) 103 that wants to participate as a seller of Content 113 in the Secure Digital Content Electronic Distribution System 100 makes a request to one or more of the Digital Content Provider(s) 101 that provide Content 113 to the Secure Digital Content Electronic Distribution System 100. There is no definitive process for making the request so long as the two parties come to an agreement. After the digital content label such as a Music Label e.g. Sony, Time-Warner, etc. decides to allow the Electronic Digital Content Store(s) 103 to sell its Content 113, the Clearinghouse(s) 105 is contacted, usually via E-mail, with a request that the Electronic Digital Content Store(s) 103 be added to the Secure Digital Content Electronic Distribution System 100. The digital content label provides the name of the Electronic Digital Content Store(s) 103 and any other information that may be required for the Clearinghouse(s) 105 to create a digital certificate for the Electronic Digital Content Store(s) 103. The digital certificate is sent to the digital content label in a secure fashion, and then forwarded by the digital content label to the Electronic Digital Content Store(s) 103.

Once again, the disclosure in these passages simply does not support the Examiner's rejection. There is no disclosure, teaching, or suggestion whatsoever in this passage, nor anywhere else in Downs, about how degradations in content quality are identified or assessed after being received from a network, and Downs cannot be fairly read to disclose a combination "at least one monitor station to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content." For the reasons above, Applicant

respectfully submits that Downs cannot anticipate claim 1 and respectfully requests withdrawal of the rejection.

Regarding claims 2-4 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 1 is in condition for allowance. Applicant therefore respectfully submits that claims 2-4 are allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Claim 8 recites a method combination including integrating a digital watermark into content, distributing said content over a network as distributed content, receiving said distributed content in at least one location of said network and “analyzing said digital watermark of said distributed content for information indicative of the quality of said distributed content.” As discussed above in connection with claim 1, Downs does not disclose every element and limitation recited in the claim. Specifically, Downs does not disclose that the watermark is itself used in any way to determine the degradation of content received from a network. Downs therefore cannot disclose, teach or suggest a method combination including “analyzing said digital watermark of said distributed content for information indicative of the quality of said distributed content.” Applicant submits that Downs cannot anticipate claim 8 and respectfully requests withdrawal of the rejection and allowance of the claim.

Regarding claims 9-10 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 8 is in condition for allowance. Applicant therefore respectfully submits that claims 9-10 are allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Claim 11 recites a machine-readable medium containing instructions which, when executed, effect the following: integrating a digital watermark into content, distributing said content over a network as distributed content, receiving said distributed content in at least one location of said network and “analyzing said digital watermark of said distributed content for

information indicative of the quality of said distributed content.” As discussed above in connection with claim 1, Downs does not disclose every element and limitation recited in the claim. Specifically, Downs does not disclose that the watermark is itself used in any way to determine the degradation of content received from a network. Downs therefore cannot disclose, teach or suggest a machine-readable medium containing a combination of instructions including “analyzing said digital watermark of said distributed content for information indicative of the quality of said distributed content.” Applicant submits that Downs cannot anticipate claim 11 and respectfully requests withdrawal of the rejection and allowance of the claim.

Regarding claims 12-13 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 11 is in condition for allowance. Applicant therefore respectfully submits that claims 12-13 are allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Claim 14 recites a system including means to serve content that is connected to a network, said means to serve content capable of delivering content over said network, said content containing a digital watermark, and “means for monitoring to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content.” As discussed above in connection with claim 1, Downs does not disclose every element and limitation recited in the claim. Specifically, Downs does not disclose that the watermark is itself used in any way to determine the degradation of content received from a network. Downs therefore cannot disclose, teach or suggest a system combination including “means for monitoring to receive said content over said network and analyzing said digital watermark for information indicative of degradation of said content.” Applicant submits that Downs cannot anticipate claim 14 and respectfully requests withdrawal of the rejection and allowance of the claim.

Regarding claims 15-17 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 14 is in condition for allowance. Applicant therefore respectfully submits that claims 15-17 are allowable by virtue of their dependence on an

allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 5, 6, 18 and 19 under 35 U.S.C. § 103(a) as obvious in view of, and therefore unpatentable over, Downs as applied to claims 1 and 14 and further in view of U.S. Patent No. 6,473,516 to Kawaguchi et al (“Kawaguchi”). Applicant respectfully traverses the Examiner’s rejections. If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claims 1 and 14 are in condition for allowance. Applicant therefore respectfully submits that claims 5 and 6 are allowable by virtue of their dependence on allowable claim 1, as well as by virtue of the features recited therein. Similarly, claims 18 and 19 are allowable by virtue of their dependence on allowable claim 14, as well as by virtue of the features cited therein. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Conclusion

Given the above remarks, Applicant believes all claims pending in the application are in condition for allowance. If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to allowance of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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Date: 3-29-04

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